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Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

WESLEY GERMER,

CV. _____

Plaintiff,

v.

**DEFENDANT'S NOTICE OF
REMOVAL TO FEDERAL COURT**

SAGE SOFTWARE, INC., a Virginia
corporation,

Defendant.

TO: The Judges of the United States District Court for the District of Oregon; Clerk of the Circuit Court of the State of Oregon for the County of Multnomah; and Scott N. Hunt, plaintiff's attorney of record.

Pursuant to 28 USC § 1441, defendant Sage Software, Inc., hereby gives notice of the removal of the action entitled *Wesley Germer v. Sage Software, Inc., a Virginia corporation*,

Case No. 0802-02935, pending in the Circuit Court of the State of Oregon for the County of Multnomah to the United States District Court for Oregon.

1. On or about February 25, 2008, an action was filed against defendant Sage Software, Inc., in the Circuit Court of the State of Oregon for the County of Multnomah, Case No. 0802-02935, entitled *Wesley Germer v. Sage Software, Inc., a Virginia corporation*. A copy of the Summons and Complaint filed and entered in said Court are attached hereto as Exhibits A and B, respectively, and incorporated by reference herein.

2. Pursuant to 28 USC § 1446, this Notice of Removal is timely filed within 30 days after defendant Sage Software, Inc., learned of the suit.

3. The requirements of 28 USC § 1332(a) are satisfied in that the amount in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs. Plaintiff seeks damages against defendant in the amount of \$300,000 in economic damages, \$500,000 in non-economic damages, and other unspecified amounts in damages.

4. This is a civil action that may be removed to this Court by defendant, pursuant to the provisions of 28 USC § 1441 and 1446(b), inasmuch as it is a civil action wherein the matter of controversy exceeds the sum of \$75,000, exclusive of interests and costs, and is between citizens of different states. Plaintiff is a resident of Washington. Sage Software, Inc. is a Virginia corporation and has a principal place of business in a state other than Oregon.

5. Promptly after filing this Notice of Removal, defendant will serve a copy upon plaintiff and will file a copy with the Clerk of the Circuit Court of Multnomah County, Oregon.

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THEREFORE, defendant removes the above-referenced case now pending against it in the Circuit Court of the State of Oregon for the County of Multnomah to the United States District Court for the District of Oregon.

DATED this 24th day of March, 2008.

BARRAN LIEBMAN LLP

By 

Paula A. Barran, OSB No. 80397

Richard C. Hunt, OSB No. 68077

Telephone: (503) 228-0500

Attorneys for Defendant

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8155

In the Circuit Court of the State of Oregon

For the County of Multnomah

WESLEY GERMER,

Plaintiff(s),

vs.

Case No. 0802-02935SAGE SOFTWARE, INC., a Virginia
corporation,

SUMMONS

Defendant(s).

To CT CORPORATION SYSTEM388 State Street, Suite 420Salem, OR 97301Registered Agent for Sage Software, Inc.

Defendant

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

SIGNATURE OF ☒ ATTORNEY ☐ AUTHOR FOR PLAINTIFF

Scott N. Hunt, OSB #92343

ATTORNEY'S / AUTHOR'S NAME (TYPED OR PRINTED)

BAR NO. (IF ANY)

621 S.W. Morrison Street, Suite 521

ADDRESS

Portland, Oregon 97205 (503) 248-0504

CITY

STATE

ZIP

PHONE

(503)248-2131 shunt@busseandhunt.com

FAX (IF ANY)

ATTORNEY'S E-MAIL ADDRESS (IF ANY)

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED)

BAR NO.

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

ATTORNEY(S) FOR PLAINTIFF(S)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

WESLEY GERMER,

Plaintiff,

v.

SAGE SOFTWARE, INC., a Virginia
corporation,

Defendant.

Case No. 0802-02935

COMPLAINT

(Disability Discrimination; Oregon
Family Leave Act Discrimination;
Wrongful Discharge)

CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION

Plaintiff alleges:

FIRST CLAIM FOR RELIEF

(Disability/Perceived Disability Discrimination - ORS 659A.112)

1.

Plaintiff is a resident and citizen of the State of Washington.

2.

Defendant is a Virginia corporation doing business in Oregon. At all material times
Defendant acted through agents and employees who at all material times acted within the
course and scope of their agency and employment for Defendant.

3.

Plaintiff worked for Defendant in Oregon from on or about June 26, 2006 until

1 January 11, 2007 when Defendant terminated his employment.

2 4.

3 Prior to his employment Plaintiff injured his back resulting in a back condition and
4 chronic pain. Prior to his termination Plaintiff informed Defendant of his back condition and
5 that he took pain medication for the chronic pain associated with his back condition. At the
6 time of his termination, Plaintiff's back condition and/or chronic pain substantially limited
7 him in one or more major life activities, including, but not limited to, lifting, standing,
8 walking, running, sitting, reaching, carrying and/or sleeping. At times his pain leads to
9 debilitating migraine headaches at which times he is substantially limited in multiple major
10 life activities, including but not limited to, seeing and/or caring for himself.
11

12 5.

13 Prior to Plaintiff's termination, Plaintiff requested reasonable accommodation of his
14 back condition, and/or chronic pain including leave to see his medical providers. Prior to his
15 termination he complained and/or reported that he felt discriminated against due to his
16 disability, back condition and/or chronic pain.
17

18 6.

19 As a result of Plaintiff's back condition, chronic pain, and/or his need to take pain
20 medication due to that condition(s) Defendant perceived him to be disabled in that he was
21 perceived to have a substantially limiting back condition and/or an addiction to pain
22 medications.
23

24 7.

25 Defendant discriminated against Plaintiff by failing to reasonably accommodate him
26

1 and/or by failing to engage in the interactive process and/or by terminating his employment
 2 because of his disability, because of his medical history, because it perceived him to be a
 3 disabled person and/or in retaliation for requesting a reasonable accommodation and/or
 4 complaining about and/or reporting being discriminated against due to his disability.
 5

6 8.

7 As a result of Defendant's conduct, Plaintiff suffered and continues to suffer
 8 emotional distress, all to his non-economic damage in an amount to be proven at trial, which
 9 amount is alleged to be \$500,000.
 10

11 9.

12 As a further result of Defendant's conduct, Plaintiff suffered economic loss and
 13 continues to suffer such loss all to his damage in a sum to be proven at trial, which sum is
 14 alleged to be \$300,000.
 15

16 10.

17 Defendant's conduct demonstrated a reckless and outrageous indifference to a
 18 reasonable risk of harm to Plaintiff, or a conscious indifference to his health and/or welfare,
 19 and Plaintiff reserves the right to allege punitive damages in an amount to be set by a jury.
 20

21 11.

22 Pursuant to ORS 659A.885 and 20.107, Plaintiff is entitled to his reasonable
 23 attorneys' fees, expert witness fees, costs and disbursements.
 24

25 ////

26 ////

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SECOND CLAIM FOR RELIEF

(Oregon Family Leave Act Discrimination - ORS chapter 659A)

12.

Plaintiff realleges paragraphs 1 through 9, and 11.

13.

At all material times Defendant was a "covered employer," pursuant to ORS 659A.153, and subject to Oregon's Family Leave Act.

14.

At all material times after April 30, 2007, Plaintiff was an "eligible employee," pursuant to ORS 659A.156, entitled to the benefits and protections of Oregon's Family Leave Act.

15.

Starting in July 2007, Plaintiff requested leave to seek treatment for his serious health condition.

16.

Defendant initially granted Plaintiff's request for leave, then interfered with Plaintiff taking such leave and ultimately refused to allow him to take medical leave.

17.

Plaintiff was terminated in substantial part for requesting and/or taking family medical leave.

18.

Plaintiff is entitled to back pay, reinstatement or front pay, prejudgment interest and

1 reasonable attorneys' fees and expert witness fees pursuant to ORS 659A.885 and ORS
2 20.107.

3 THIRD CLAIM FOR RELIEF

4 (Wrongful Discharge)

5 19.

6
7 Plaintiff realleges paragraphs 1 through 10, 13, 14, 15 and 17.

8 20.

9 Before his termination, Plaintiff requested and/or took family leave due to his serious
10 health condition.

11 WHEREFORE, Plaintiff prays for judgment as alleged in the claim stated above.

12 DATED this 25th day of February, 2008.

13
14 BUSSE & HUNT

15
16 

17 SCOTT N. HUNT, OSB #92343

18 Telephone: (503) 248-0504

19 Facsimile: (503) 248-2131

20 *shunt@busseandhunt.com*

21 Of Attorneys for Plaintiff Wesley Germer

22 TRIAL ATTORNEY:

23 SCOTT N. HUNT, OSB #92343

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of March 2008, I served the foregoing **DEFENDANT'S NOTICE OF REMOVAL TO FEDERAL COURT** on the following party at the following address:

Scott N. Hunt
Busse and Hunt
621 S.W. Morrison Street, Suite 521
Portland, Oregon 97205

by causing the same to be: ☒ mailed ☐ hand delivered ☐ faxed ☐ e-mailed
to him a true and correct copy thereof.



Richard C. Hunt